

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 991 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJ STATE ROAD TRANSPORT CORPN

Versus

ADAM YAKUB MEMON

Appearance:

MR NV ANJARIA for Appellat

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 03/09/98

ORAL JUDGMENT

#. This Appeal is directed by the Gujarat State Road Transport Corporation against the award of the Motor Accident Claims Tribunal (Aux.), Kutchh at Bhuj, decided on 10.10.86 passed in MACP No.89 of 1985 under which the claimant-respondent No.1 has been awarded Rs.10,000/= as compensation for the damages caused to his property, namely taxi No.GTY-9963 in an accident by the offending

vehicle, i.e. bus belonging to the appellant-corporation.

#. The only contention made by the learned counsel for the appellant is that the learned tribunal has committed serious error in holding that the driver of the ST bus was wholly responsible for the accident. The tribunal ought to have held that the claimant-respondent No.1 was himself negligent in driving the taxi.

#. I have given my thoughtful considerations to the submissions made by the learned counsel for the appellant.

#. From the judgment of the tribunal, I find that on the basis of evidence produced by both the parties, the issue No.1, "whether it is proved that the damage to the taxi No.GTY-9963 of the applicant was caused due to rash and negligent driving of the ST Bus No.GRR-8605 of the opponent No.1", has been decided in favour of the claimant-respondent No.1. The tribunal found as a fact that the driver of the ST bus took a sudden turn which has resulted in the accident. The two witnesses who have been examined from the side of the Corporation as what the tribunal notices were conspicuously silent as to whether the driver of the ST bus had given a signal before it decided to turn on the right side ?. These two witnesses also were silent about the speed of the bus at the relevant time. It is true that driver of the ST bus as stated that he gave a signal before taking turn from the right side but he has not stated as to what was the distance between the ST bus and taxi at that time. The tribunal has rightly not placed reliance on this statement of the driver keeping in view the statement of the two other witnesses of the Corporation and the applicant-respondent No.1 and the fact that he is an interested person and he can make any statement to save his own skin. The finding of facts on the issue of negligence of the driver of the ST bus in driving the vehicle is based on appreciation of evidence of parties and the learned counsel for the appellant is unable to show that the findings are perverse or the tribunal in recording these findings has misread the evidence or any material piece of evidence has not been considered. It is a pure and simple question of appreciation of evidence of the parties. The evidence of which of the parties has to be relied upon is a question of appreciation of evidence and even if on the basis of one set of evidence two views are possible, it should not be interfered with ordinarily by this Court sitting in the Appeal.

#. In the result, this Appeal fails and the same is

dismissed.

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(sunil)